

SCHOOL OF PUBLIC
HEALTH
UNIVERSITY OF
GHANA

DENNIS SELORM DANGBEY

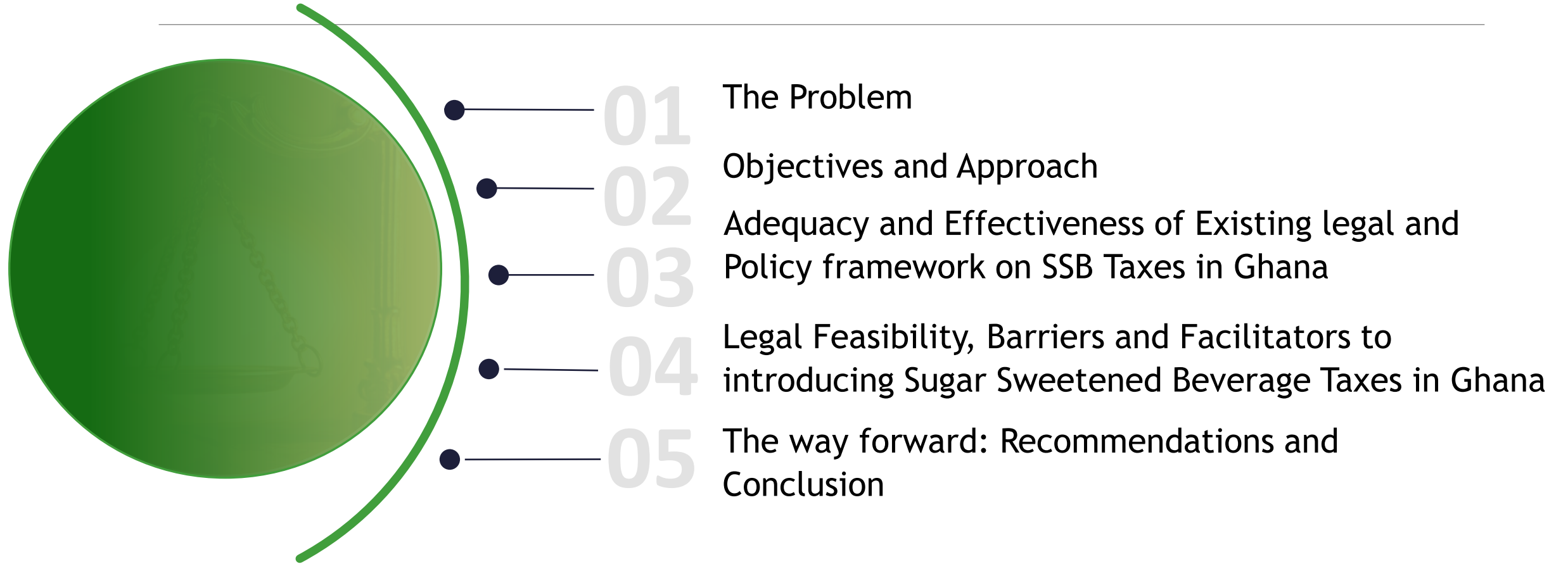
&

EMMANUEL K.B. EWUL

5th May, 2023

LEGAL PATHWAYS FOR INTRODUCING AND ENACTING SUGAR SWEETENED BEVERAGE TAX LAWS IN GHANA

ROAD MAP



THE PROBLEM

- ❑ The prevalence of non-communicable diseases (NCDs) is on the rise in Africa, and Ghana is no exception.
- ❑ In 2008, studies by WHO indicated that Ghana has the highest prevalence rate of NCDs than in any other country in the sub-Saharan Africa.
- ❑ School children are now growing overweight and may grow to develop diabetes and related diseases.

□ WHO and MOH - Consumption of Sugar Sweetened Beverages is a major direct cause of most NCDs.

□ Reduction in consumption of SSBs = Direct reduction in prevalence of NCDs - WHO

□ HOW WILL THIS BE ACHIEVED?

- In 2015, WHO endorsed health related taxes as part of evidence-based strategies for the prevention and control of NCDs.
- Major action - Taxation of sugar sweetened beverages - proven to be effective intervention to reduce sugar consumption.
- Example South Africa - Tax of 2.1 ZAR for every gram of sugar above 4grams/100ml - significant reduction in consumption of SSBs. Other countries like Nigeria and Mexico.

OBJECTIVE

- ❑ Ascertain the existing tax regime on SSBs in Ghana.
- ❑ Find out the legal barriers and facilitators to the strengthening or introduction of sugar sweetened tax laws in Ghana.
- ❑ Outline the legal pathway to strengthening or introducing SSB tax law in Ghana.
- ❑ Recommend (if any) additional policies required to regulate and ensure effective implementation of SSBs in Ghana.

APPROACH

- ❑ Pure legal research - Constitution, statutes, Legislative Instruments, Policies.
- ❑ Interviews - Policies makers, Industry Players.
- ❑ Resort to scholarly articles and practices from other countries. Eg. South Africa, Nigeria, Mexico.

EXISTING LEGAL AND POLICY FRAMEWORK ON SSB TAX IN GHANA

- ❑ The 1992 Constitution. Right to food and health guaranteed - Article 33(5) of the 1992 Constitution; *Mensah v Mensah*
- ❑ Scattered pieces of legislations and Policies which slightly touch on SSB taxes: Excise Duty Act, 2014 as amended, Excise Tax Stamp, Special Import Levies; Value Added Tax; National Policy for the Prevention and Control of Chronic Non-Communicable Diseases in Ghana, 2012 (Revised in March, 2022), National Health Policy.
- ❑ No specific standalone SSB tax law yet, but the Excise Duty Act has been amended to make some provisions on SSB.

FINDINGS - THE EXISTING LAWS ARE NOT ROBUST

- ❑ Aim of laws not fit for the purpose - Unlike the case in UK, South Africa, Nigeria, Mexico etc.
- ❑ Meagre fees imposed as excise tax stamp.
- ❑ Policies only highlights the need for SSB taxes without more.
- ❑ No robust legal framework on SSB tax in Ghana.

02- WHAT DO WE DO? PASS AN SSB TAX LAW? WHY?

- ❑ Ghana needs to pass a standalone SSB tax law for the following reasons:
 - ❖ Bounden duty of government, constitutional and sacred, to protect the health of its citizens.
 - ❖ Evidence of the effectiveness of SSBs in reducing consumption of SSBs and ultimately, NCDs.

02- CONT.

- ❖ Need to retain revenues accruing from the imposition of SSBs to be used to fund the health sector prevention and treatment programs for NCDs.
- ❖ Identified as a more cost effective legal intervention measure to control the rising burden of NCDs.
- ❖ Generally, funds to boost domestic revenue for government translating into development - IMF recommendation in 2021.

FEASIBILITY OF INTRODUCING A STANDALONE SUGAR SWEETENED BEVERAGE TAX LAW IN GHANA

- ❑ Almost unlimited and unrestricted right of government to impose taxes on citizens subject to the test of constitutionality.
- ❑ Government's bounden duty and desire to protect the right to health of its citizens.
- ❑ Calls by MOH, Stakeholders and academia for the imposition of SSB tax to reduce NCDs in Ghana.
- ❑ Government's desire to increase domestic revenue for development of health sector.
- ❑ Political will and no foreseeable litigation in court.

03 - ANY BOTTLENECKS?

- ❑ Possibility of resistance by industry players in the SSB industry.
- ❑ What do we do?
 - ❖ Education, sensitizations, advocacy and discussions on the importance of imposing SSB taxes.
 - ❖ Actively engage and involve industry players on discussions on the subject of introducing SSB taxes.

04 - POSSIBILITY OF EARMARKING REVENUES FROM THE IMPOSITION OF SSB TAX

- ❑ Possible to earmark funds accruing from the imposition of SSB taxes in Ghana.
- ❑ Parliament may by an Act of Parliament direct revenues received to be paid into a special funds.
- ❑ Presently about 12 revenue earmarking arrangement existing in Ghana. Eg. NHIF, GETFUND, District Assembly Common Fund, Petroleum Revenue Management Fund etc.

04- CONT.

- ❑ Proven to be a successful tool for revenue disbursement and utilization for special projects in Ghana.
- ❑ Research shows that revenue earmarking has enabled the government to introduce higher taxes without much public outcry.
- ❑ Earmarking creates accountability - exact revenue and purpose for collecting revenue tracked.

04- CONT

- However, Parliament must set up strict accountability mechanisms to minimize abuse at both administrative and government levels.

ACHIEVEMENT SO FAR

- ❑ Parliament has now passed the Excise Duty (Amendment) Act, 2022.
- ❑ The Act now imposes an excise duty of 20 per centum of the ex factory price on sweetened beverages including fruit juices.
- ❑ But still not robust.

05- GHANA REQUIRES A NEW STAND-ALONE SSB TAX

- ❑ Comparatively, it will be easier, quicker and less costly to amend existing pieces of legislations bordering on SSB tax.
- ❑ However, a new standalone SSB tax is needed because of the overriding health importance of SSB tax to:
 - ❑ accord it with distinct focus; and
 - ❑ to make provisions for wide range of issues bordering on SSB taxes. Eg. Appropriate tax structure to be adopted, scope and definition of products affected by the law, specialized enforcement mechanisms and agents, revenue earmarking etc.

THE WAY FORWARD- CONCLUSION AND RECOMMENDATION

- ❑ Present tax laws affecting SSBs are not comprehensive, robust and adequate - Need to pass a new SSB tax.
- ❑ Evidence shows that introducing SSB taxes will lead to reduction in consumption of SSB and ultimately NCDs.
- ❑ No standalone SSB Tax Law in Ghana - SSB Tax can be introduced and experience shows it will work.

CONT.

- ❑ There is the political will and desire to introduce SSB tax in Ghana.
- ❑ Earmark funds accruing from the imposition of SSB tax - Legally possible.
- ❑ Pass a new and stand-alone SSB tax to address all issues relating to the imposition and enforcement of tax laws on SSBs in Ghana.

END OF
PRESENTATION

